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CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
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February 28, 2022

Louis A. DePasquale
City Manager
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

***Re: Response to Awaiting Report No. 21-93, Council Order No. O-7 of 12/6/21 Re:
Report on Proposed Amendments to the Municipal Code Relative to Recent
Charter Changes***

Dear Mr. DePasquale:

We have prepared this in response to the above-referenced Awaiting Report, No. 21-93, Council Order No. O-7 of 12/6/21 (the "Council Order"). The Council Order requests that the City Manager: "report on instructing the City Solicitor to draft the appropriate ordinance amendments for the City Council to review following the recent charter amendments." The Council Order noted that many other municipalities have adopted similar ordinances and that Cambridge should build on best practices used by municipalities throughout the Commonwealth. In discussion, Councilors requested that the City Solicitor provide information on the procedures that other municipalities have adopted in considering potential charter changes.

Commissions to review charter amendments

We have reviewed cities and towns surrounding Cambridge for recent charter review committees or commissions and how they were formed. A commonly used process for changes relating in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager is provided for in Chapter 43B of the Massachusetts General Laws.

M.G.L. c. 43B provides for cities and towns to form a charter review commission. Members of a charter commission formed pursuant to M.G.L. c. 43B are elected. Candidates for a charter commission can submit signatures of registered voters for nomination.¹ The

¹ M.G.L. c. 43B, section 5.

commission would be made up of nine registered voters and would be elected at-large.² The commission would propose charter amendments and dissolve thirty days after any proposed amendments are included on the ballot.³ A charter commission formed pursuant to M.G.L. c. 43B may propose any changes to a charter including changes relating in any way to “the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager.”⁴

Arlington, Belmont, Brookline, Lexington, Revere, and Waltham have not amended their charters or formed charter review committees recently. Medford recently submitted a home rule petition request to create a charter review commission, which has not yet been acted upon. Framingham⁵ and Newton⁶ each formed charter review commissions pursuant to M.G.L. c. 43B in 2017.

Watertown formed a Charter Review Commission in 2020, as provided for in its charter, which consisted of fifteen members, including all eight sitting councilors, the Council President, and six residents chosen by the Council President.⁷ The Watertown charter states, “[t]he town council shall provide, in every year ending in a zero, for a complete review of the charter by the entire council and six additional voters to be appointed by the council president. The said committee shall file a report within the said year recommending any changes in the charter which it may deem to be necessary or desirable, unless an extension is authorized by vote of the town council.”^{8, 9} The six residents were chosen from a group of residents who submitted letters of interest and were interviewed by the Council President.¹⁰ Watertown’s Charter Review Commission submitted a final report to the City Council in August 2021.¹¹ The proposed changes were placed on the ballot in the 2021 election and were passed. We searched Watertown’s ordinances for any ordinance related to the Charter Review Commission and found none.

Chelsea formed a Charter Review Committee in 2020, also as provided for in its charter, which consisted of five residents appointed by the City Council President, five city councilors,

² M.G.L. c. 43B, section 6.

³ M.G.L. c. 43B, section 7.

⁴ M.G.L. c. 43B, section 10

⁵ <https://www.framinghamma.gov/2067/Charter-Commission>

⁶ <https://www.newtonma.gov/home/showpublisheddocument/478/637218460309430000>

⁷ <https://ma-watertown2.civicplus.com/faq.aspx?TID=32>

⁸ Id.

⁹ Watertown’s 2021 amendments to its charter included changes to the Charter Review Commission. The charter now states, “[t]he city council shall provide, in every year ending in a six, for a complete review of the charter by a committee of nine members to be appointed by the council president and confirmed by a majority of the council. Not more than three members of the committee shall be current members of the council. All members of the committee shall be residents of the city. The said committee shall file a report within the said year recommending any changes in the charter which it may deem to be necessary or desirable, unless an extension is authorized by vote of the city council. The city council shall appropriate funds adequate to cover professional assistance, public engagement, and community education for the committee’s review. The city council shall provide all the necessary documents and information to the committee and the public prior to the commencement of the charter review process.

¹⁰ Id.

¹¹ <https://ma-watertown2.civicplus.com/DocumentCenter/View/33103/2021-08-10-Final-Watertown-Charter-Amendments-Report>

and three school committee members.¹² The Chelsea charter states, “[i]n every year ending in zero the city council shall establish a Charter review committee consisting of members of the city council, the school committee and residents of the city to examine and review the Charter and report to the city council findings, conclusions and recommendations.” Chelsea’s Charter Review Commission submitted a final report to the Chelsea City Council in 2020. Proposed amendments to the charter were placed on the ballot in 2021 and were approved by the voters. We searched Chelsea’s ordinances for mention of the Charter Review Committee and found none.

Somerville has a Charter Review Committee that is currently holding meetings with the public.¹³ Somerville’s Charter Review Committee consists of the Mayor, the President of the City Council, the Chair of the School Committee (or their designees); three community members appointed by the Mayor; three community members appointed by the President of the City Council; and three community members appointed by the Chair of the School Committee.¹⁴ The Charter Review Committee’s work is still ongoing. We searched Somerville’s charter and ordinances for mention of the Charter Review Committee and found none.

Boston has a Special Committee on Charter Reform, which is a Committee of the City Council and is currently made up of three City Councilors.¹⁵ Although it is a standing City Council Committee, it is not clear that it is reviewing any particular proposed charter changes at this time.

Charter amendments

As noted above, a charter commission or committee formed pursuant to M.G.L. c. 43B may propose any change to a charter including changes relating in any way to “the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager.”¹⁶

Charter amendments relating to other subjects may be proposed several ways. First, if a charter review commission formed pursuant to M.G.L. c. 43B recommends any amendments to a city or town’s charter in its final report, the recommended amendments must be submitted to the voters for their approval at the first regular city election.¹⁷ If the final report of a charter review commission formed pursuant to M.G.L. c. 43B does not recommend any amendments to the City’s charter, the final report shall not be submitted to the voters.¹⁸

Second, a city council or town meeting may propose amendments to a city or town’s charter by a two-thirds vote and a city council and town meeting must also consider any

¹² https://www.chelseama.gov/sites/g/files/vyhlf396/f/pages/revised_charter_review_packet_2020_.pdf

¹³ <https://www.somervillema.gov/departments/charter-review-committee>

¹⁴ <https://thesomervillenevnewsweekly.blog/2021/01/06/application-deadline-extended-somervilles-charter-review-committee-seeks-community-members/>

¹⁵ <https://www.cityofboston.gov/citycouncil/committees/charter.asp>

¹⁶ M.G.L. c. 43B, section 10.

¹⁷ M.G.L. c. 43B, section 11.

¹⁸ M.G.L. c. 43B, section 10.

amendment, with limited exceptions, proposed by a mayor or city manager.¹⁹ This approach is done pursuant to M.G.L. c. 43B, §10. If an amendment is proposed by a mayor or city manager and considered by a city council or town meeting, the amendment must be the subject of a public hearing.²⁰ If an order proposing a charter amendment to the voters is approved by the mayor and city council or town meeting, a copy of the proposed amendment must be submitted to the Attorney General. The Attorney General will furnish an opinion identifying any conflicts between the proposed amendment and the constitution and laws of the Commonwealth.²¹ The proposed charter amendment must then be submitted to the voters for approval.²² This is the procedure followed by Cambridge in enacting the three recent Charter amendments.

Another method of Charter amendment would be through enactment of a special act by the State Legislature, after a local proposal for such a special act.

As noted above, we were unable to find any ordinances in other municipalities establishing a charter review process that could be used by the City's special committee to review potential charter changes for the City. Therefore, we will prepare a draft ordinance for the City Council's review and consideration. The proposed ordinance should provide for the process to be used by the special committee in advising the City Council on any proposed amendments to the City's charter it recommends after completing its review process.

Very truly yours,



Nancy E. Glowa
City Solicitor

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.